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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,380	09/30/2003	Jeyhan Karaoguz	14763US02	6855
23446 7590 05/21/2007 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER CHU, WUTCHUNG	
			ART UNIT 2616	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/675,380

Applicant(s)

KARAOGUZ ET AL.

Examiner

Wutchung Chu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/30/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Applicant's claim for domestic priority under 35 U.S. C. 119(e) is acknowledged.

### ***Claim Objections***

2. Claim 13 is objected to because of the following informalities: the claim depends on itself. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Regarding claims 11-20, are directed to a computer program per se. Therefore it is merely a functional descriptive language, and it is not statutory as it fails to fall into one of the four statutory classes of invention: process, machine, manufacture, or composition of matter.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3 and 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3 line 1-2, the term "said provisioned communication functions" has no antecedent basis.

Regarding claims 11-20, the recitation of "A machine-readable storage having stored thereon, a computer program having at least one code section for supporting a plurality of broadband networks and various service provider infrastructures, the at least one code section being executable by a machine for causing the machine to perform steps" is vague and indefinite because it is not known the metes and bounds of the claimed invention, because it is not known what is "machine readable storage".

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Doi et al. (US6970919).

Regarding claim 1, Doi et al. teaches a method and system for network management (**see column 2 line 21-31**) comprising:

- establishing a second communication path that is independent of a first communication path that couples at least two end points via at least a first broadband network (**see column 15 line 53-59 and figure 26 dotted line between node F and node G**); and

- transferring information that would be normally transferred over the first communication path between the at least two endpoints via the established second communication path (**see column 15 line 60-65 and figure 26 from edge 1 (1) and the edge (7) via the link (1), the node A, the link (a1), the node F, the virtual link, the node G, the link (a10), the node J, and the link (j)).**

Regarding claim 2, Doi et al. teaches further comprising provisioning the established second communication path for handling communication functions (**see column 4 line 29-34**).

Regarding claim 3, Doi et al. teaches provisioned communication functions further comprises at least one of operations administration maintenance and provisioning (OAM&P), roaming, user authentication (**see column 12 line 44-49**), media transfer(**see column 4 line 29-34**), caching, storage management (**see column 4 line 5**) and addressing management (**see column line 24-33**).

Regarding claim 4, Doi et al. teaches further comprising temporarily storing the information during the transferring of the information between the at least two endpoints via the established second communication path (**see column 4 line 24-28**).

Regarding claim 5, Doi et al. teaches the first communication path is a physical communication path (**see column 15 line 13-18 and figure 25**).

Regarding claim 6, Doi et al. teaches the second communication path is a logical communication path path (**see column 15 line 60-65 and figure 26 from edge 1 (1)**

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**and the edge (7) via the link (1), the node A, the link (a1), the node F, the virtual link, the node G, the link (a10), the node J, and the link (j)).**

Regarding claim 7, Doi et al. teaches the second communication path is at least one of a circuit switched connection and a packet switched connection **(see column 4 line 66 PBX switches connected via ATM switches).**

Regarding claim 8, Doi et al. teaches the at least two endpoints comprises a first source endpoint and at least a first destination endpoint **(see figure 25 edge 1 and edge 7 and column 15 line 1-36).**

Regarding claim 9, Doi et al. teaches the at least two endpoints is at least one of media processing systems, media peripherals **(see column 5 line 3)**, personal computers, third (3<sup>rd</sup>) party media providers **(see column 4 line 5-6 and figure 1 box 3-1, 3-2, and 3-3)**, third (3<sup>rd</sup>) party storage vendors **(see figure 1 box 2)** and channel information servers **(see figure 2 box 13 VOD service).**

Regarding claim 10, Doi et al. teaches the second and the first communication path comprises at least one of a wired **(see column 4 line 17 links)** and a wireless communication link.

Regarding claims 11-20, Doi et al. teaches service-management server **(see column 5 line 11 and figure 4 box 1 it is inherent that server is executed by a set of instruction; and column 13 line 10-22 and 53-67 and column 14 line 4-13 teaches cross-connection definition and service definition file)** and disclose all the

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limitations as discussed in the rejection of claims 1-10 and are therefore apparatus claims 11-20 are rejected using the same rationales.

Regarding claims 21-31, Doi et al. teaches service-management server (**see column 5 line 11 and figure 4 box 1 it is inherent that server includes processor; and peripheral computer see figure 13 box 75-77 to include processor**) and disclose all the limitations as discussed in the rejection of claims 1-10 and are therefore apparatus claims 21-31 are rejected using the same rationales.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-3, 5-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Gorman (US6917624).

Regarding claim 1, Gorman discloses an apparatus for providing a derived digital telephone voice channel (**see column 2 line 39-43**) comprising:

- establishing a second communication path that is independent of a first communication path that couples at least two end points via at least a first broadband network (**see column 2 line 61-65**); and
- transferring information that would be normally transferred over the first communication path between the at least two endpoints via the established second communication path (**see column 3 line 1-8**).

Regarding claim 2, Gorman teaches comprising provisioning said established second communication path for handling communication functions (**see column 3 line 2-3 access telephone**).

Regarding claim 3, Gorman teaches the provisioned communication functions further comprises at least one of operations administration maintenance and provisioning (OAM&P), roaming, user authentication, media transfer (**see column 3 line 57-61**), caching, storage management and addressing management.

Regarding claim 5, Gorman teaches the first communication path is a physical communication path (**see column 3 line 9 wireline**).

Regarding claim 6, Gorman teaches the second communication path is a logical communication path (**see column 3 line wireless**).

Regarding claim 7, Gorman teaches the second communication path is at least one of a circuit switched connection (**see column 2 line 48 PSTN**) and a packet switched connection.

Regarding claim 8, Gorman teaches the at least two endpoints comprises a first source endpoint (**see column 3 line central office which provide multiplexed data line for transmission**) and at least a first destination endpoint (**see column 3 line 42 subscriber location**).

Regarding claim 9, Gorman teaches the at least two endpoints is at least one of media processing systems, media peripherals (**see column 3 line 11**), personal



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computers (**see column 3 line 10**), third (3<sup>rd</sup>) party media providers, third (3<sup>rd</sup>) party storage vendors and channel information servers.

Regarding claim 10, Gorman teaches the second and said first communication path comprises at least one of a wired (**see column 3 line 8**) and a wireless communication link (**see column 3 line 1**).

Regarding claims 21-23, 25-31, Gorman teaches information distribution system (**see column 2 line 39**) and disclose all the limitations as discussed in the rejection of claims 1-3 and 5-10 and are therefore apparatus claims 21-23, 25-31 are rejected using the same rationales.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Carcerano et al. (US6308205) discloses browser-based network management allowing administrators to use web browser on user's workstation to view and update configuration of network devices.

Bowcutt et al. (US6308328) discloses usage statistics collection for a cable data deliver system.

Zimmman et al. (US2007/0083604) discloses system and method for providing secure data transmission.

Murray et al. (US6751441) disclose Intra-premises wireless broadband service using lumped and distributed wireless radiation from cable source input.

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Roos (US7130336) discloses an apparatus and method for provision of a back-up connection in a telecommunication system.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wutchung Chu whose telephone number is 571 270 1411. The examiner can normally be reached on Monday - Friday 1000 - 1500EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571 272 7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WC  
Wutchung Chu

  
WING CHAN  
SUPERVISORY PATENT EXAMINER

5/17/07